

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

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MAYOR AND BOARD OF TRUSTEES OF THE
VILLAGE OF TARRYTOWN and the VILLAGE OF
TARRYTOWN,

Petitioners,

-against-

DECISION AND ORDER

Index No. 11630/11

MAYOR AND BOARD OF TRUSTEES OF THE
VILLAGE OF SLEEPY HOLLOW and GENERAL
MOTORS LLC a/k/a GENERAL MOTORS
COMPANY, LLC,

Respondents.

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Hubert, A.J.S.C.

Before the Court is Petitioners' motion to renew and reargue this Court's prior Decision, Order and Judgment dated September 7, 2012, dismissing their CPLR Article 78 petition. For the reasons explained below, the Court denies Petitioners' motion and adheres to its original decision in all respects.

A motion to reargue, addressed to the discretion of the court, is designed to afford a party an opportunity to establish that the court overlooked or misapprehended relevant facts or misapplied any controlling principle of law. CPLR § 2221. However, "[r]eargument is not

designed to afford the unsuccessful party successive opportunities to reargue issues previously decided (citations omitted) or to present arguments different from those originally asserted.” *William P. Pahl Equip. Corp. v. Kassiss*, 182 A.D.2d 22, 27, 588 N.Y.S.2d 8, 11 (1st Dep’t 1992), *lv. dismiss. in part, den. in part*, 80 N.Y.2d 1005 (1992), *rearg. den.* 81 N.Y.2d 782 (1993)(internal citation omitted); *Hoey-Kennedy v. Kennedy*, 294 A.D.2d 573, 742 N.Y.S.2d 573 (2d Dep’t 2002). Petitioners do not establish that the Court misapprehended any facts or misapplied any controlling principles of law.

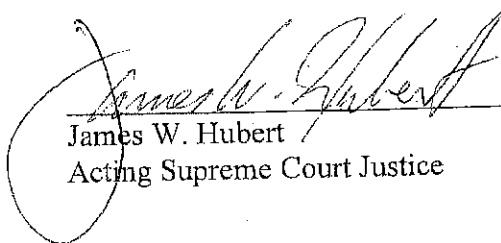
With respect to Petitioners’ motion to renew, the Court notes that CPLR § 2221(e) provides that a motion for leave to renew “shall be based upon new facts not offered on the prior motion that would change the prior determination or shall demonstrate that there has been a change in the law that would change the prior determination.” Petitioners argue that “new facts have come to light since the Judgment” which require renewal, namely, that a member of the Sleepy Hollow Village Board posted an open letter on a Facebook page, and again in an on-line publication, stating that this Court’s decision does not require Sleepy Hollow to use funds to mitigate traffic impacts in Tarrytown.

Such an opinion about the scope and interpretation of the Court’s decision, in the context here, does not constitute a “new fact” upon which a motion for leave to renew can be based.

Accordingly, the motion is denied in all respects.

The foregoing constitutes the Decision and Order of the Court.

Dated: White Plains, New York
February 14, 2013



James W. Hubert
Acting Supreme Court Justice

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